

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SYLVESTER JAMES MAHONE,

Plaintiff,

v.

PIERCE COUNTY, et al.,

Defendants.

CASE NO. C14-5665 BHS

ORDER ADOPTING REPORT  
AND RECOMMENDATION AND  
DENYING DEFENDANTS'  
MOTION TO STRIKE

This matter comes before the Court on the Report and Recommendation ("R&R") of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 32), and Plaintiff Sylvester Mahone's ("Mahone") objections to the R&R (Dkt. 38).

On August 25, 2014, Mahone filed a 42 U.S.C. § 1983 suit against Pierce County, Pierce County Sheriff Paul Pastor, and three unknown Pierce County Jail Deputies (collectively "Pierce County"). Dkt. 5. On November 7, 2014, Mahone filed an "emergency motion" to be immediately placed in federal custody because Pierce County Correctional Deputies were threatening his life. Dkt. 21.

On December 19, 2014, Judge Strombom issued the R&R recommending that the Court deny Mahone's motion. Dkt. 32. On December 31, 2014, Mahone filed

1 objections. Dkt. 38. On January 15, 2015, Pierce County responded and moved to strike  
2 statements in Mahone's objections. Dkt. 41.

3 Federal Rule of Civil Procedure 72(b) governs objections to a magistrate judge's  
4 recommended disposition. Rule 72(b) provides as follows:

5 The district judge must determine de novo any part of the magistrate  
6 judge's disposition that has been properly objected to. The district judge  
7 may accept, reject, or modify the recommended disposition; receive further  
8 evidence; or return the matter to the magistrate judge with instructions.

9 Fed. R. Civ. P. 72(b)(3).

10 Mahone objects to the R&R, arguing that Judge Strombom failed to consider the  
11 latest threats made against him. Dkt. 38 at 3. Mahone detailed these threats in his  
12 supplemental declaration, which he submitted as a surrebuttal to Pierce County's reply.  
13 Dkt. 34. The Court has reviewed Mahone's evidence. This evidence, however, does not  
14 establish a threat of irreparable or immediate injury. Mahone fails to satisfy the  
15 requirements for a preliminary injunction, as set forth by Judge Strombom in the R&R.  
16 See Dkt. 32 at 5–7. The Court therefore agrees with Judge Strombom that Mahone's  
17 emergency motion should be denied.

18 Pierce County asks the Court to strike various statements in Mahone's objections  
19 because the statements are inadmissible. Dkt. 41 at 2. The Court, however, may consider  
20 inadmissible evidence when deciding whether to issue a preliminary injunction. *Flynt*  
21 *Distrib. Co., Inc. v. Harvey*, 734 F.2d 1389, 1394 (9th Cir. 1984). Moreover, Pierce  
22 County has not shown that it will be prejudiced by the statements. The Court denies  
Pierce County's motion to strike.

